

REMARKS

1. Claims 1, 3, 5-7, 9-13, 15-17, 19-21, 23, 25-27, 29-33, 35-37 and 39-46 are pending and stand rejected. This communication amends claims 1, 11, 21 and 31.

2. Claims 1-3, 10-13, 20, 21, 23, 30-33, 40, 41, 45 and 46 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,436,101 to Hamada.

In response, independent claims 1, 11, 21 and 31 have been amended to recite “a body thickness *measured between edges of the first and second plurality of teeth* that continuously decreases from the anterior end to the posterior end.”

Claims 45 and 46, which have not been amended, recite “the body having a thickness measured between edges of the first and second plurality of teeth, the thickness continuously decreasing from an anterior-most pair of the first and second plurality of teeth to a posterior-most pair of the first and second plurality of teeth.” This feature was not addressed by the examiner in the office action.

In contrast, Hamada discloses a rasp in FIG. 44 that has a body thickness measured between first and second rasp surfaces 507 and 521 (surfaces with a pattern of crossing grooves) that, from anterior end 527 to posterior end 525, continuously increases to a maximum or near maximum thickness LLL and then continuously decreases. Thus, Hamada does not disclose, teach or suggest the subject matter recited in independent claims 1, 11, 21, 31, 45 and 46. Accordingly, independent claims 1, 11, 21, 31, 45 and 46 are allowable over Hamada.

Dependent claims 3, 10, 41; 12, 13, 20; 23, 30; and 32, 33, 40, depend directly or indirectly from respective amended independent claims 1, 11, 21, 31 which are allowable over

Hamada. For at least this reason, these claims are also allowable over Hamada. Accordingly, withdrawal of this rejection is respectfully requested.

3. Claims 9, 19, 29 and 39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hamada.

Claims 9, 19, 29 and 39 depend directly or indirectly from respective claims 1, 11, 21, 31 therefore, they now require “a body thickness *measured between edges of the first and second plurality of teeth* that continuously decreases from the anterior end to the posterior end.” Hamada does not teach or suggest an instrument or system having such a feature. Accordingly, withdrawal of this rejection is respectfully requested.

4. Claims 5-7, 15-17, 25-27, 35-37 and 42-44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hamada in view of U.S. Patent No. 5,432,365 to Waldman.

Claims 5-7; 15-17, 42; 25-27, 43 and 35-37, 44 depend directly or indirectly from respective claims 1, 11, 21, 31 therefore, they now require “a body thickness *measured between edges of the first and second plurality of teeth* that continuously decreases from the anterior end to the posterior end.” Neither Hamada nor Waldman teach or suggest an instrument or system having such a feature. For at least this reason, claims 5-7, 15-17, 25-27, 35-37 and 42-44 are allowable over Hamada in view of Waldman. Accordingly, withdrawal of this rejection is respectfully requested.

5. Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1, 3, 5-7, 9-13, 15-17, 19-21, 23, 25-27, 29-33, 35-37 and 39-46 are in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicants' undersigned attorney at his number listed below.

6. The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17, which are associated with this communication, or credit any overpayment to Deposit Account No. 50-2061.

Respectfully submitted,



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